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report series

MARIHUANA

A Discussion Paper

Governor's Council on Drug and Alcohol Abuse

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INTRODUCTION

- 26 million Americans have tried marihuana at least once
- 13 million Americans smoke marihuana on a regular basis
- 1,127,389 Americans were arrested for marihuana-related offenses during 1970-1973
- 420,700 marihuana arrests occurred in the United States in 1973
- 93% of all the United States arrests were for possession
- 88% of those Americans arrested were under the age of 26

The problem, concern, and use of marihuna has reached epidemic proportions and Pennsylvania is not immune. Indecision and confusion earmark many professionals striving for conclusive evidence either way. Law enforcement officials turn to researchers for evidence pointing to the toxicity of marihuana. Researchers, stymied with contradictory conclusions, turn to lawyers and legislators for policy decisions.

This report was prepared by the staff of the Governor's Council on Drug and Alcohol Abuse to attempt to evaluate the impact of the existing marihuana policies in the Commonwealth of Pennsylvania.

This report does not propose solutions or recommendations to the marihuana problem, nor does it address the moral or emotional issues involved in the marihuana debate. It does, however, explore the attitudes of the Pennsylvania public toward marihuana, the impact of current laws, the health research controversy, and law enforcement.

It is hoped that this report will be helpful in developing Pennsylvania's role in dealing with what has become a national concern.

# # #

MARIHUANA POLL: ATTITUDES & USAGE

In a poll conducted in February, 1975, by Oliver Quayle and Company for the Governor's Council on Drug and Alcohol Abuse, the following highlights the results compiled from the 1200 people interviewed:

1. THE MAJORITY OF ADULTS (57%) BELIEVE THE EXISTING MARIHUANA LAWS SHOULD BE STRICTER. HOWEVER, 61% (OF THE SAME 57%) ARE NOT AT ALL FAMILIAR WITH THE PRESENT MARIHUANA LAWS AS THEY EXIST TODAY.

The majority of people who stated they were very knowledgeable or quite familiar with the law felt the marihuana laws should remain the same or become more lenient (49%); whereas, 45% of the people in the same category felt they should be stricter.

Past and present marihuana users disagree sharply with non-users --60% of those who have tried marihuana favor a more lenient law.

An analysis by party affiliation demonstrates that Republicans are the most conservative, with Independents and Democrats leaning slightly toward lenient restrictions.

The majority of all demographic groups favor stricter laws (even among the young and college educated).

Only 1/3 of all adults between 18 and 25 years of age and 1/3 of adults with some college or a college degree favor more lenient laws. Yet, as many people from the same group favor stricter laws.

(In contrast to these statistics, the Drug Abuse Council, Inc., Washington, D.C., released in February, 1975, the results of a national survey of marihuana use and attitudes. The survey showed 39% favor eliminating criminal penalties for sale/possession/private use of marihuana, and 40% favor stricter laws.)

As stated previously, the majority of those people interviewed opposed any leniency of the law. However, 52% opposed the removal of criminal offenses of a small amount of marihuana; whereas 80% opposed legalization (complete authorization of use) of possession and sale of a similar amount.

2. ONLY 4% OF PENNSYLVANIANS OVER 18 YEARS OF AGE REPORT THAT THEY NOW USE MARIHUANA, WHILE ANOTHER 11% REPORT PAST USAGE.

	Percentage of All Adult Residents
Ever Used Marihuana	11%
Currently Use Marihuana	4%
Used Marihuana in the Past	7%
Never Used Marihuana	87%
Refused to Answer	2%

If it is assumed that those who refused to answer have indeed tried marihuana, then a total of 13% of the State's adults have had experience with it.

Some 55% of current users smoke marihuana at least once a week, but only 17% smoke it once a day or more. It is likely that usage was understated somewhat due to the nature of the telephone

interviewing.

> (In contrast to the 11% figure drawn by Quayle with a telephone survey, the Governor's Council on Drug and Alcohol Abuse conducted a personal survey in 1973 of the prevalence and intensity of marihuana use in Pennsylvania. This study found that 19.2% of the population over 15 years of age used marihuana at least once during that year and 4.3% reported current usage of three or more times a week.)

There is some evidence to indicate that usage is indeed understated here. The Drug Abuse Council, Inc. conducted a survey of the national adult population in October, 1974, and found, with personal interviewing, that 18% had used marihuana at some time. Similarly, two surveys of the nation's 18 and older population conducted by the National Commission on Marihuana and Drug Abuse in 1971 and 1972 found, again in personal interviewing, that 15% and 16% respectively had tried marihuana. While it may be hypothesized that usage in Pennsylvania may be lower than on the West Coast or in the Northeast, it seems reasonable to suppose that it would not be lower than the national average.

3. AS EXPECTED, EXPERIENCE WITH MARIHUANA (11%) TENDS TO BE HIGHEST AMONG SINGLE MEN UNDER 35 YEARS OF AGE (BUT ESPECIALLY THOSE UNDER 26) AND WITH SOME EDUCATION BEYOND HIGH SCHOOL.

Recent college students are particularly in the majority, whether they are still in school, have dropped out, or graduated.

In contrast, relatively low experience is acknowledged by women, those who are 35 years of age or older, the widowed (who tend to be older), those with the least education, housewives, and Republicans.

4. WHEN THOSE WHO HAVE NEVER TRIED MARIHUANA (87%) WERE ASKED TO EXPLAIN THE REASONS FOR NON-USE, THE DOMINANT EXPLANATIONS WERE FEAR OF POSSIBLE HEALTH DANGERS AND A SIMPLE LACK OF INTEREST.

There were few and minor differences in the reasons cited by members of various demographic groups. Adults between 18 and 25 tend to cite fear of legal repercussions more than average, but less likely to report lack of opportunity. They were also more inclined to mention that they feel no personal need for it.

Health fears were most frequently cited by those with the least education, while those with some college or more were significantly less concerned about possible health hazards.

Lack of interest was the most frequently cited reasons among those with some college education (who tend to be young and presumably have opportunities to try marihuana).

# # #

MARIHUANA: THE LAW AND CRIMINAL PENALTIES IN PENNSYLVANIA

Prior to April, 1972, the criminal penalties for possession, sale, dispensing, or giving away of marihuana were defined under the "Drug, Device and Cosmetic Act," Act of September 26, 1961, (P.L. 1664).

Marihuana was then defined as a "narcotic drug" and all offenses which involved possession or delivery of marihuana were treated as a felony, and--except for the first offenders--prison sentences were mandatory.

Prior to 1972, no distinctions were made between possession, selling, distribution, or giving away of marihuana.

Penalties were the same regardless of the amount of marihuana involved. Therefore it made no difference whether or not someone was arrested for possession of one marihuana cigarette or ten pounds of marihuana. The penalties for simple possession of marihuana ranged from imprisonment of 2 to 5 years for the first offender to mandatory imprisonment for a third offender of "separate or solitary confinement at labor of not less than 10 years and not exceeding 30 years."

All this changed in June, 1972, when the "Controlled Substance Drug, Device and Cosmetic Act," Act of April 14, 1972, (P.L. 233, No. 64) (hereinafter "Act 64") became law.

Act 64 established Schedules I-V of the controlled drugs (such as marihuana, opium, LSD, cocaine) and provided penalties for offenses under each schedule. Except for a small amount of marihuana the penalties for sale, giving away, or possession are the same as

for LSD, barbiturates, and amphetamines.

Marihuana and hashish were defined* as Schedule I non-narcotic drugs. Furthermore, the legal distinction was made only between simple possession (misdemeanor) and possession with intent to deliver (felony). Selling and cultivation of marihuana is treated the same as possession with intent to distribute. No distinction is made.

Maximum Pennsylvania Penalties Act 64	1st Offense	2nd and Subsequent Offenses
Simple Possession (Misdemeanor)	30 grams**or less of marihuana or 8 grams or less of hashish, 30 days and/or $500.	Same Penalties
	Over above amounts, 0-1 year and/or $5,000	Same Penalties
Possession With Intent to Distribute (Felony)	0-5 years and/or $15,000	0-10 years and/or $30,000

* Act 64-Section 4 (1).
Schedule I

"In determining that a substance comes within this schedule, the secretary (of Health) shall find: a high potential for abuse, no currently accepted medical use in the United States, and a lack of accepted safety for use under medical supervision."

**30grams constitutes just over one ounce or comparable to the weight of tobacco in a package of cigarettes.

ALTERNATIVES TO INCARCERATION

In addition to traditional probation, three alternatives to prison for adults exist in Pennsylvania today:

1. Accelerated Rehabilitative Disposition (ARD)
2. Section 17 (Act 64) - Probation Without Verdict
3. Section 18 (Act 64) - Disposition In Lieu of Trial

ACCELERATED REHABILITATIVE DISPOSITION (ARD)

The basis for the ARD programs originally developed in Philadelphia in 1971. The next year this alternative was incorporated into the Pennsylvania Rules of Criminal Procedure. This program is aimed at the first offender charged with a less serious offense (e.g. possession of drugs, stolen property, public intoxication, trespassing).

In 1973, 95% of the 8,635 pretrial disposition cases were referred to ARD (6,831 of these cases were from Philadelphia County) from the criminal courts (figure excludes juvenile court).

An ARD program as established within the counties is generally an extension of the Probation Department where supervision is minimal. When a person is accused of a crime which the local district attorney and presiding judge agree is suitable for ARD, the defendant is given the opportunity to enter the ARD program and if the probationary period is completed without the defendant having committed an additional offense, the charges will be dismissed and the record will be expunged. At the same time, the defendant agrees to waive his rights to a speedy trial and statute of limitations

In a survey sent to the 67 district attorneys in January, 1975, by the Governor's Council on Drug and Alcohol Abuse, 47 replies (of the 49 returned) stated their counties have established an ARD program. However, only 31 counties utilize the program for marihuana offenses, which in 1974 totalled 452 cases.

(The total figure of 452 does not include Philadelphia County because records there were not categorized according to the offense. The Philadelphia District Attorney's Office has informed the Governor's Council on Drug and Alcohol Abuse that due to the tremendous number of cases, the Philadelphia District Attorney's Office usually drops any charges for possession of marihuana when it involves 30 grams or less. Section 17 was typically applied to college students convicted of selling a relatively small amount of marihuana, and Section 18 was used less extensively.)

In 1974, however, 10,823 cases were diverted prior to trial. Of these, 1,303 were drug violations with 631 persons placed in ARD, 646 persons given Probation Without Verdict, and 26 cases processed on Disposition in Lieu of Trial.

According to the Council survey, the majority of district attorneys do NOT choose to recommend ARD for marihuana offenses. Also, in spite of expungment mandated by law (Section 19, Act 64), we know of only three counties which substantially comply with the statute (Philadelphia, Allegheny, and Centre counties).

SECTION 17 (Act 64) - PROBATION WITHOUT VERDICT

This section permits the presiding judge at the time of a

hearing to place certain persons on a special period of probation with certain stipulations (e.g. attendance in a treatment and rehabilitation program). This is only offered to offenders who have no prior drug convictions under Act 64 and who decide to plead guilty or nolo contendere or who are found guilty at the time of the trial.

Excluded from this section are nondrug abusers who are charged with delivery or possession with intent to deliver.

Unlike ARD prescribed by the Pennsylvania Supreme Court Rule, it appears the concurrence of the district attorney for treatment under this section is not necessary.

After a person successfully completes his probation, the court then discharges him and dismisses the charges against him. Furthermore, Section 19 (Act 64) requires the court to expunge the record of those people who have satisfactorily completed Section 17 probation. As stated earlier, in the vast majority of counties, this procedure is not complied with as anticipated when the law was enacted.

According to the 1974 survey, the 23 counties (excluding Philadelphia County) who utilize Section 17 placed a total of 844 marihuana cases on "Probation Without Verdict."

Furthermore, 24 counties choose not to utilize this section as provided in Act 64.

SECTION 18 (Act 64) - DISPOSITION IN LIEU OF TRIAL

This section provides an alternative for the drug abuser who has been charged with a non-violent crime and who has requested

treatment prior to the trial.

At this time a court-appointed physician experienced in the field of drug abuse is selected to examine the defendant and may recommend that the charges be withdrawn or held in abeyance in order that the defendant may enter into a drug abuse treatment program.

Implementation of the physician's recommendations is at the discretion of the local district attorney with the court's approval.

As indicated by the 1974 survey, Section 18 is used on a limited basis. Of those polled, eleven counties (including Philadelphia County) use this section and 37 counties do not.

In conclusion, the Pennsylvania Supreme Court and the Pennsylvania General Assembly have provided constructive alternatives for both the citizens of Pennsylvania and the judicial branch of government. As demonstrated in this section, the use of alternative dispositions is far from uniform across the Commonwealth. There is a great deal of truth in the philosophy: In Pennsylvania if you are charged with drug violations, the outcome of your case may well depend on where you are arrested.

The goal is to insure that the use of alternatives to incarceration is uniform to the largest extent possible and to devise a comprehensive program which utilizes the best features of the three described from the law enforcement and treatment viewpoints.

# # #

MARIHUANA LAW ENFORCEMENT

The number of arrests for marihuana violations is steadily rising each year. Whereas 283 marihuana arrests are reported for 1965, this figure grew to 6,898 arrests in 1972. After the "Controlled Substance, Drug, Device and Cosmetic Act" (hereinafter "Act 64") became effective, marihuana arrests soared to 9,616 in 1973, representing 63% of the total narcotic and other drug arrests that year.

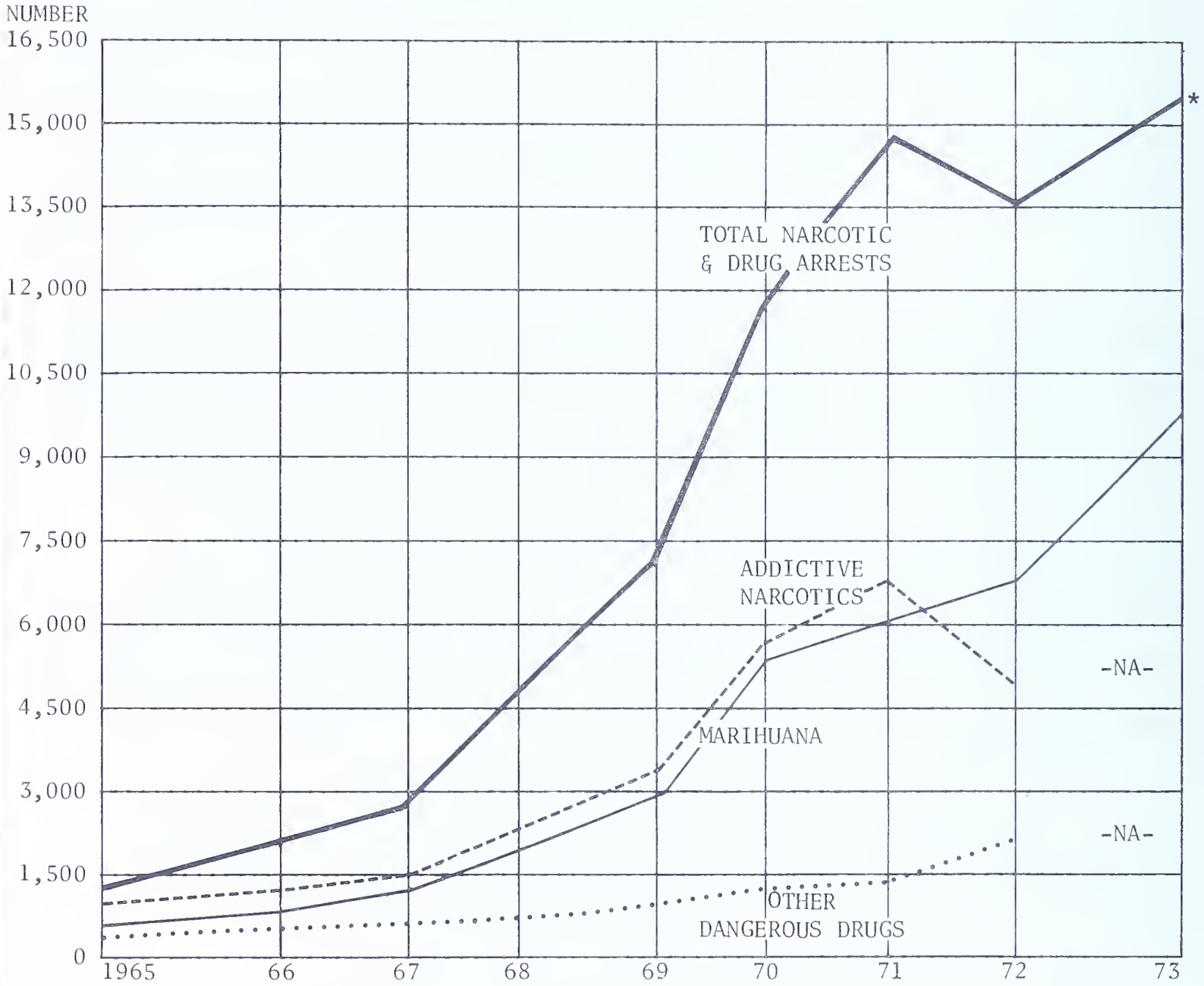
A summary of these records for the period 1965-1973 is presented in Figure 1, which was modified from Crime and the Pennsylvania Criminal Justice System, Governor's Justice Commission. This data includes arrests by both State and local enforcement officers for both levels of violations in connection with marihuana; i.e. simple possession, possession with intent to distribute. The modifications include the addition of records for 1973 obtained from the Pennsylvania State Police and the United States Drug Enforcement Administration.

As indicated in the chart, marihuana arrests account for increasingly greater proportions of the total drug arrests each year.

Figure 2 presents national statistics, excluding Federal arrests, for 1968-1972. The number of State and local arrests cannot be compared to the national Uniform Crime Report statistics because Federal law enforcement agency figures are excluded. The percentages of marihuana arrests, however, outline the same trend with heroin

Figure 1

Pennsylvania Narcotic and Drug Law Arrests 1965-1973



Percentage: marihuana/total	'68	'69	'70	'71	'72	'73
	41%	43%	43%	43%	50.5%	63%

*15,258 total narcotic and drug arrests; figure extracted from "Pennsylvania Uniform Crime Report, 1973"

"Crime and the Pennsylvania Criminal Justice System"

and cocaine dominating 1969-1970-1971 and marihuana rising again in 1972 at a faster pace.

Figure 2 NATIONAL TABLE OF STATE AND LOCAL PERFORMANCE MEASUREMENTS

State & Local Drug Law Arrests in U.S.	1968	1969	1970	1971	1972
TOTAL	162,177	232,690	346,412	400,606	431,608
Heroin & Cocaine	42,328	67,945	108,427	114,573	92,364
Marihuana	78,169	95,868	157,271	183,878	239,111
Synthetic Narcotics	8,920	15,125	19,053	26,040	38,413
Other	32,760	53,752	61,661	76,115	61,720
Percentage of Total Marihuana Arrests	48.2%	41.2%	45.4%	45.9%	55.4%

Source: Uniform Crime Report
U. S. Department of Justice
Drug Enforcement Administration
March, 1974

OFFICE OF DRUG LAW ENFORCEMENT

The Office of Drug Law Enforcement (hereinafter "the Office") was established in the Pennsylvania Department of Justice in 1973 to coordinate and direct the enforcement of Act 64 on the State level. This office oversees the activity of the State Police Strike Force, which was created in January, 1972, in response to the increased need for specialized enforcement efforts for drug offenses in the State. As of February, 1975, 84 officers are assigned to the Strike Force.

Presently, the Bureau of Drug Control which functions under the Office has 115 enforcement personnel, 100 of whom are narcotics agents. When the regional office structure is fully operational, there will be 8 local strike force offices shared by the Bureau of Drug Control and State Police Strike Force personnel. At that time

the arrest statistics will be a single total for the cooperative enforcement efforts under the Office.

The drug arrest statistics, 1971-1974, for all State law enforcement officers appear in Figure #3 below.

FIGURE #3 - MARIHUANA ARRESTS BY STATE POLICE AND NARCOTICS AGENTS

	Total	Office of Drug Law Enforcement **		Other State Police
		State Police Strike Force	Bureau of Drug Control & Predecessors	
1971	1,484	-----	294 (sale 77 / poss 217)	1,190
1972	1,358	-----	330 (sale 173 / poss 157)	1,028*
1973	1,762	-----	281 (sale 237 / poss 44)	1,481* (sale 445 / poss 1,036)
1974	2,244	641 (sale 577 / poss 64)	277 (sale 267 / poss 10)	1,326 See Appendix

Statistics compiled from arrest data from Joseph Reiter, Esquire, Special Deputy Attorney General

*State Police Strike Force arrests are included.

**Strike Force does not operate in Philadelphia.

The rise in marihuana arrests from 1,358 in 1972 to 1,762 in 1973, and 2,244 in 1974, reflects the Statewide increase in marihuana arrests cited earlier.

The arrest statistics from the Bureau of Drug Control for two years after Act 64 took effect indicate that after the legal distinction was made between possession and possession with intent to distribute, the special State drug authorities emphasized the distribution charge which is a felony offense.

Of the marihuana arrests in 1973 initiated by the Bureau of Drug Control, 237, or 84.3%, were for felony offenses. In 1974, 267, or 96.4%, were felony arrests.

Regarding court disposition of the above arrests, the Office of Drug Law Enforcement's conviction rate for felony offenses is 80% to 90%.

The rate of conviction for all narcotics sales offenses processed in the Pennsylvania courts in 1973 is 69% (Pennsylvania Criminal Court Dispositions, 1973, Department of Justice, Bureau of Criminal Justice Statistics). That is 69% of all defendants processed for felony offenses. If the Statewide percentage conviction rate of all those arrested for the felony could be calculated, it would be lower.

For simple possession offenses in the same year, only 42% of the cases processed resulted in convictions.

Seemingly, 9,616 marihuana arrests for 1973 represent a significant law enforcement effort by local and State officers. This enforcement effort, however, may not represent a large inroad into the incidence of marihuana use as the 1973 incidence and prevalence study of drug use conducted by the Governor's Council on Drug and Alcohol Abuse estimated that 350,000 Pennsylvanians over age 15 are "high intensity" users of marihuana.

If these figures are accurate, then this enforcement effort reaches less than 3% of its target population. The objectives of recent State enforcement efforts, however, have been to contain the

distribution of marihuana. The same survey cited above also estimates that 19.2% of the population of Pennsylvania used marihuana during 1973. This suggests that a significant impact on marihuana distribution has not been made.

PENNSYLVANIA LAW ENFORCEMENT COSTS

Although it would be useful for a complete evaluation to know the expenditure involved in the effort to enforce the laws against marihuana possession and distribution, such a cost assessment has not been conducted in Pennsylvania.

The State of California, however, has compiled the expenditures associated with marihuana law enforcement. The figures may provide a crude estimate of the expenditures realized in Pennsylvania. A detailed study of marihuana enforcement costs was conducted in California for the period 1960-1972. California, with a population of 20 million people (1970) as compared to Pennsylvania's 11.8 million, is the highest ranking state for marihuana offenses. For example, the California arrests of 10,002 in 1965 surpasses Pennsylvania's arrests of 9,616 for 1973.

Seven years ago more than half (50,000) of the nationwide marihuana arrests were made in California. The annual cost to California for the enforcement of marihuana laws rose from $8 millic in 1960 to $72 million in 1968.

If one could speculate that criminal justice expenses are similar in both states, the estimated average cost per arrest of California marihuana enforcement can be used to derive a Pennsylvani estimate. The cost per arrest in California was $1,630 before 1969.

Reduction of penalties and changes in enforcement procedures brought the California cost per arrest estimated down to $1,340 after 1969. If the Pennsylvania expenses are taken as comparable to California's ($1,340), Pennsylvania's 1972 marihuana arrests would have an estimated enforcement cost of $9.2 million.

TRADEMARK OF CHANGE: DECRIMINALIZATION

Various cities and states have already chosen to remove criminal penalties for simple possession of marihuana. It should be noted that by removing criminal penalties for simple possession, cities and states are not "legalizing" marihuana.

On October 6, 1973, Oregon abolished criminal penalties for simple possession, substituting civil fines of up to $100. To sell marihuana, to grow, or to possess marihuana with intent to sell remains a felony in Oregon; by decriminalization we refer to social use and personal possession.

One year after the new legislation, two evaluation studies have been conducted to ascertain the impact of the revised statutes. One study conducted by the Oregon State Police indicated a 62.1% rise for 1973 in the total marihuana arrests for the State. For comparison the total nationwide arrests increased 43% over 1972; and Pennsylvania 1973 arrests increased 40% over the previous year. No comparisons are yet available for 1974, however.

In another study of the Oregon law, the Drug Abuse Council, Inc. observed that 58% of all respondents favor the present law or more liberal statute; only 39% thought the present law was too lenient

In the spring of 1974, the Denver City Council (Colorado) passed an ordinance overriding the state marihuana law which holds possession to be a misdemeanor. The new ordinance treats possession of up to half an ounce of marihuana as a noncriminal violation. In

October, 1974, the Colorado District Attorneys Association approved (by a 3-1 margin) a resolution to support a change in the state law to conform with the Denver experiment.

The so-called "parking ticket model" was first introduced in Ann Arbor and Ypsilanti, Michigan. In 1974 the two neighboring cities approved a referendum providing for maximum $5 fine for simple possession of marihuana.

In February of this year a bill was favorably voted out of the Senate Judiciary Committee of California substantially reducing penalties along the lines of the "Oregon" plan. Under the measure possession for less than one ounce of marihuana would be treated similar to a traffic violation. In addition, giving less than one ounce of marihuana to another person, without compensation, also would result in a citation with a maximum fine of $100. However, in 1973 a statewide referendum on the issue of decriminalizing marihuana for personal possession was defeated by a 2 to 1 margin.

Other states are currently considering legislation which would remove criminal penalties for marihuana possession. In late January, 1975, Democrat Governor Carey of New York announced a proposal which would remove criminal penalties for possession of small amounts of marihuana and replace them with a system of fines or mandatory attendance at health clinics for treatment. Two New York legislators have also proposed complete legalization of use by people over 18. The two, Senator Franz S. Leichter of Manhattan and Assemblyman Alan G. Hevesi of Queens, stated they would reintroduce

a bill to create a state marihuana control authority to license and regulate growers, producers, manufactures, and distributors.

In Massachusetts, Dr. Mathew Dumont, Director, Drug Rehabilitation Division of the State Department of Mental Health, indicated three legislative bills will be voted on in March which provide for decriminalization of private use of marihuana.

In New Jersey, legislation has been introduced to the General Assembly (Senate Bill 1461) which provides for a maximum fine of $50 for possession of less than 28 grams of marihuana or less than 6 grams of hashish. Thus, the penalty for simple possession of marihuana would become a civil offense only. Public hearings in the General Assembly began March 3, 1975.

Federal decriminalization legislation has been introduced in this session of the United States Congress: in the Senate by Jacob Javits (R-New York), and in the House of Representatives by Edward Koch (D-New York). The Javits-Koch bill calls for the removal of all penalties of the possession and not-for-profit transfer of marihuana.

# # #

CRIMINAL PENALTIES UNDER CURRENT MARIHUANA LAWS IN OTHER STATES

The most notable feature of marihuana laws in the United States is the widely disparate treatment of offenders and offenses.

For first offenses, maximum penalties range from imprisonment up to 15 years or fine of $10,000 (Rhode Island) to "no jail" and $100 fine (Oregon). For subsequent offenses of simple possession the penalties range from life imprisonment (Indiana) to 14 days and/or $1,000 fine (Nebraska).

Some important trends have emerged in all states in recent years. Most states have reduced penalties for possession, formalized a policy of lenience toward first offenders, and eliminated minimum mandatory sentences.

These trends are most apparent in connection with possession of marihuana, which at least for small amounts, is now a misdemeanor in 49 states (Rhode Island continues to punish these offenders as felons). Three states, however, still make no distinction between marihuana and narcotics.

Another important trend is the special legal treatment accorded the first offender. In 32 states (including Pennsylvania) a conditional discharge is permitted for first time offenders. A conditional discharge permits the release of an offender before formal adjudication. If the conditions are met, the case is dismissed and the defendant discharged. In most states, these discharges are awarded at the discretion of the judge. In Massachusetts and West Virginia the conditional discharge of first

offenders is mandatory.

A final emerging trend is a graduation of penalties administered for possession offenses. Most states now make distinctions according to the amount of marihuana possessed, and administer a graduated severity of penalties corresponding to the amount of marihuana possessed.

In the tables on the following page, State and Federal penalties for possession of marihuana are described. These tables were prepared by the National Organization for Reform of Marihuana Laws and are current as of September 1973.

The Federal Law

The Controlled Substances Act of 1970, Pub. Law 91-513 (Oct. 27, 1970).

OFFENSE	1st Offense	2nd Offense	Subsequent Offense
Simple possession	0-1 year, $5,000*	0-2 years, $10,000	Same
Possession with intent to distribute	0-5 years, $15,000	0-10 years, $30,000	Same
Sale or distribution	0-5 years, $15,000**	0-10 years, $30,000	Same
Sale or distribution to a minor	0-10 years, $30,000	0-15 years, $45,000	Same

*For first offender, court has deseretionary authority to defer proceedings and place defendant on probation, which, if successfully discharged, avoids an adjudication of guilt. For offenders under 21, court has further discretionary authority to completely expunge the records.

**Distribution of a "small amount of marijuana for no remuneration" is to be treated the same as simple possession.

Penalty Provisions for Major Marijuana Offenses
(All fines are represented as maximum amounts possible)

A. POSSESSION

	1st Offense	2nd Offense	Subsequent Offense
Alabama	0-1 year/$1,000	2-15 years/$25,000	. . .
Alaska	0-1 year and/or $1,000 or rehabilitation treatment by state for 1 year	. . .	. . .
Arizona	0-1 yr. in county jail and/or $1,000 or 1-10 yrs. and $50,000	2-20 yrs. and $50,000	5 yrs.-life and $50,000; parole possible after 5 yrs.
Arkansas*	0-1 yr. and/or $250	0-1 yr. and/or $250	2-5 yrs.
California*	Up to 1 yr. in county jail or 1-10 yrs. and $20,000	2-20 yrs. and $20,000	5 yrs.-life and $20,000
Colorado*	Under ½ oz., 0-1 yr. and/or $500; or 1 yr. probation with psychiatric treatment; Over ½ oz., 2-15 yrs. and $10,000	1-14 years and/or $1,000-2,000 for up to ½ oz.; 5-20 years and/or $10,000 for over ½ oz.	. . .
Connecticut	0-1 year and/or $1,000 or up to 3 years in custody of commissioner	. . .	. . .
Delaware*	0-2 yrs. and/or $500	0-7 yrs. and/or $500	. . .
Florida	Less than 5 grams, 0-1 year and/or $1,000; More than 5 grams, 0-2 years and/or $1,000	0-2 years and/or $1,000	. . .
Georgia	0-1 year and/or $1,000 for up to 1 oz.; 0-2 years and/or $2,000 for over 1 oz.	0-5 years and/or $5,000	. . .
Hawaii*	Up to 2 oz., 0-30 days and/or $500; 2 oz. and over, 0-1 yr. and/or $1,000; 1K and over, 0-5 yrs. and/or $5,000	. . .	. . .
Marijuana Concentrates	Up to ⅛ oz., 0-1 yr. and/or $1,000; ⅛ oz. and over, 0-5 yrs. and/or $5,000; 1 oz. and over, 0-10 yrs. and/or $10,000	. . .	. . .
Idaho	0-6 months and/or $300	. . .	. . .
Illinois*	Amount		
	Less than 2.5 grams, 0-90 days	. . .	. . .
	2.5 to 10 grams, 0-180 days	. . .	. . .
	10 to 30 grams, 0-1 year	1-2 years	. . .
	30 to 500 grams, 1-3 years	2-6 years	. . .
	Over 500 grams, 1-5 years	2-7 years	. . .
Indiana	Less than 25 grams or 5 grams hashish, *1 year and/or $500* Over these amounts, *2-10 yrs. and/or $1,000*	2-15 years and/or $3,000	. . .
Iowa*		0-18 months and/or $3,000	. . .
Kansas*	0-1 yr. and/or $2,500	0-10 yrs. and/or $5,000	. . .
Kentucky*	0-90 days or no more than $250	. . .	. . .
Louisiana*	0-1 year and/or $500	0-5 years with or without hard labor and/or $2,000	0-20 years hard labor
Maine	0-11 months and/or $1,000	0-2 years and/or $2,000	. . .
Maryland*	0-1 year and/or $1,000	0-2 years and/or $2,000	0-2 years and/or $2,000
Massachusetts*	0-6 months/$500	0-2/$2,000	. . .
Michigan*	Up to 2 oz., 0-1 yr. and/or $1,000	0-2 yrs. and/or $2,000	. . .
Minnesota*	Under 1.5 oz., 0-1 year and/or $1,000; Over 1.5 oz., 0-3 years	0-6 years and/or $6,000	. . .
Mississippi*	Under 1 oz., 0-1 yr. and/or $1,000; Over 1 oz., 0-3 yrs. and/or $3,000	Under 1 oz., 0-2 yrs. and/or $2,000; Over 1 oz., 0-6 yrs. and/or $6,000	. . .

* Conditional discharge for first offense possession

	1st Offense	2nd Offense	Subsequent Offense
Missouri*	Under 35 grams or 5 grams Hashish, 0-1 year and/or $1,000; Over these amounts, 0-5 years and/or $1,000	0-5 years and/or $1,000	. . .
Montana	Up to 60 grams marijuana or 1 gram hashish, 0-1 yr. and/or $1,000; if shown to be habitual user then committed to rehabilitation institution; 0-5 years or rehabilitation for over 60 g.	0-3 yrs. and/or $1,000	. . .
Nebraska	Less than 1 pound, 7 days in county jail to be held separately and/or $500, Over 1 pound, 0-6 months in county jail or 1 year in prison and/or $500	Under 1 pound, up to 14 days and/or $1,000; Over 1 pound, 0-1 year in county jail or 2 years in prison and/or $1,000	. . .
Nevada*	Under age 21 and under 1 oz., 0-1 yr., $1,000 and suspension of driver's license or 1-6 years, $2,000; Over age 21, 1-6 yrs. and $2,000	Under age 21 and under 1 oz., 1-6 yrs. and $2,000; Over age 21, 1-10 yrs. and $2,000;	Under age 21 and under 1 oz., 1-10 yrs. Over age 21, 1-20 yrs. and $5,000
New Hampshire	Less than 1 pound, 0-1 year and/or $500; Over 1 pound, 0-5 years and/or $2,000	Less than 1 pound 0-3 years and/or $1,000; Over 1 pound, 0-10 years and/or $5,000	. . .
New Jersey*	Under 25 grams or 5 grams hashish, 0-6 months , Over 25 grams, 0-5 years and/or $15,000	. . .	. . .
New Mexico*	Under 1 oz., 15 days and $50-$100; 1-8 oz., 0-1 yr. and/or $100-$1,000; Over 8 oz., Determination of length of sentence to be made by Corrections Department (4th Degree Felony)	0-1 yr. and/or $100-$1,000	. . .
New York*	Less than 25 cigarettes or ¼ oz., 0-1 yr.; 25-99 cigarettes or more than ¼ oz., 2⅓-7 yrs.; Over 100 cigarettes or more than 1 oz., 5-15 yrs.	. . .	. . .
North Carolina*	Less than 5 grams marijuana, 1 gram hash, 1/100th gram THC, 0-6 mos. or $500; Over above amounts, 0-5 yrs. and/or $5,000	Less than 5 grams marijuana, 1 gram hash, 1/100th gram THC, 0-2 yrs. and/or $1,000; Over above amounts, 5-10 yrs. and/or $10,000	Less than 5 grams marijuana, 1 gram hash, 1/100th gram THC, 0-5 yrs. and/or $5,000; Over above amou ts, 15 yrs.-life and/or $15,000
North Dakota*	0-1 year and/or $500	. . .	. . .
Ohio	0-1 year and/or $1,000	1-10 years	. . .
Oklahoma*	0-1 year	2-10 years	. . .
Oregon*	*Up to 1 ounce, $100*	. . .	. . .
Pennsylvania*	Under 30 grams marijuana or 8 grams hashish, 30 days and/or $500; Over above amounts, 0-1 yrs. and/or $5,000	. . .	. . .
Rhode Island	0-15 yrs.and/or $10,000	0-20 yrs.and/or $10,000	0-30 yrs. and/or $10,000
South Carolina*	Under 1 oz. or 10 grams of hashish, 0-3 months and/or $100; and/or $1,000	Under 1 oz. or 10 grams of hashish, 0-6-months amounts, 0-1 year and/or $2,000	. . .
South Dakota*	Less than 1 oz., 0-1 year in county jail and/or $500 , Over 1 oz., 0-5 years and/or $5,000	0-15 years and/or $10,000	0-40 years and/or $20,000

* Conditional discharge for first offense possession

	1st Offense	2nd Offense	Subsequent Offense
Tennessee	Commitment to a state-operated drug treatment facility or community mental health center or, at the discretion of the court, up to 11 months, 29 days and/or $1,000	0-2 years	. . .
Texas	Up to 2 oz.—0-6 months and/or $1,000; 2-4 oz.—0-1 year and/or $2,000; Over 4 oz.—2-10 yrs., $5,000	10 years to life	. . .
Utah*	0-6 months and/or $299	0-1 year and/or $1,000	0-5 years in penitentiary
Vermont	Under 25 cigarettes or ½ oz., 0-6 mos. and/or $500	0-2 yrs. and/or $2,000	. . .
Virginia	0-12 months and/or $1,000	0-12 months and/or $10,000 or 2-20 years and/or $10,000	. . .
Washington	Under 40 grams, 0-90 days and/or $250; Over 40 grams, 0-5 yrs. and/or $10,000	Over 40 grams, 0-10 yrs. and/or $10,000	. . .
West Virginia*	90 days-6 months and/or $1,000*	3-12 months, $2,000	. . .
Wisconsin*	0-1 year in county jail and/or $250	. . .	. . .
Wyoming*	0-6 months and/or $1,000	0-6 months and/or $1,000	0-5 years and/or $5,000
District of Columbia	0-1 year and/or $100-$1,000	0-10 years and/or $500-$5,000	. . .

*Conditional discharge for first offense possession

THE PHYSICAL EFFECTS OF MARIHUANA

A. Current Research

During the past five years a large research effort has resulted from the Department of Health, Education, and Welfare funding and reporting on the support of marihuana research. Each year the National Institute of Drug Abuse collaborates with prominent scientists to review the current research in an annual report submitted to the United States Congress. The information presented below highlights the contents of the Fourth Annual Report, Marihuana and Health, 1974.

The current status of marihuana research is characterized by confusing controversies. Scientists have uncovered a wealth of information indicating that marihuana has a broader range of effects on the body than previously believed. In addition to the well known sensory alteration effects, marihuana is known to influence many biochemical functions. Some of these functions are vital to normal development, growth, and resistance to disease. On the other hand, current research does not offer a clear-cut answer to what hazards, if any, are incurred by the use of marihuana.

The greatest source of new information derives from experimentation on animals. Although animal studies contribute greatly to our understanding of drug action, they pose serious difficulties for interpreting drug safety in humans. In most animal studies, extremely large doses are employed. In some cases the doses used are equivalent to smoking 800 marihuana cigarettes daily. In many cases testing is conducted in artificial

situations (e.g. tissue cultures) which leave doubt about drug action in the body. Because the life span of experimental animals (e.g. rats, mice, rabbits, monkeys) is relatively short, most of these studies only investigate short term effects. In general, animal studies are best considered preliminary research leading the way to "clinical studies."

Human research to date has not demonstrated conclusive evidence that marihuana use is significantly hazardous to health. On the other hand, this research has not demonstrated a conclusive margin of safety either.

Several authors have reported unhealthly effects of marihuana. Most studies thus far, however, were either poorly controlled, (e.g. some employed polydrug users) or have not been supported by lat studies. Replication of studies showing brain damage, effects on reproduction, and immunology has been unsuccessful.

A report on the effect of marihuana on electrocardiograms expressed concern about the drug's effect on heart action. These effects, however, were not replicated in a second study and may represent a benign temporary stimulating effect of the drug.

However, it has been clearly found that chronic marihuana users have a higher sensitivity to pulmonary ailments.

A recent study of marihuana users found an increase in chromosome abnormalities while in another study using known doses of pure marihuana preparations no drug-related increases were found.

A preliminary study of long term American marihuana smokers indicated the male hormone, testosterone, may be lower in marihuana smokers. Two later studies were inconsistent: one indicated reduced hormone levels while the other did not. To date the issue is unresolved.

Other studies of long term marihuana users (three or more times a week for three years or more) found no statistical differences in academic performance or any evidence of reduced motivation. A study of medical students found no differences on an extensive battery of neuropsychological tests between marihuana users and nonusers.

The most serious grounds for concern regarding marihuana use seem to be the temporary impairment of psychomotor ability. Evidence that marihuana has a detrimental affect on driving performance continues to mount. Marihuana has been found to increase both automotive braking and starting time and to adversely affect attention and concentration abilities. A recent Canadian study examined marihuana-intoxicated drivers under both driving course and actual traffic conditions. A significant decline in performance as measured by several criteria was found in most drivers tested.

B. Marihuana Compared

In light of the above, it hardly seems possible to prepare legal policy on marihuana based on the medical findings. These findings at present appear inadequate, contradictory, and inconclusive

Although the research is contradictory, there is evidence to state that there exists a possible risk with marihuana use. But health risks are not isolated to the use of marihuana. There are risks in the use of most legal and all illicit drugs.

(This section has been incorporated not only to demonstrate that other toxic producing elements are available on the market, but also to illustrate the emotional and moral issues associated with marihuana. It is important to note this as we do not wish the reader to assume the following section to be an argument for the use of marihuana.)

Compared to the present confused state of marihuana research some drugs or compounds of medicine have been found to be potential lethal and yet they are still available on the market--by prescription and over the counter.

Consider:

- Misuse of alcohol has been associated with cirrhosis, certain types of cancer, coronary heart disease, brain disorders, disorders of the digestive system, nutritional diseases, atrophy of some endocrine glands, and increased accident and suicide rates.

- Pregnant women who were taking various drugs during the first trimester of pregnancy have delivered children suffering from birth defects.

- Blood disorders have been implicated with a number of drugs including aspirin, anticonvulsants, Antabuse (given to alcoholics to deter drinking), digoxin (heart disease).

- Hemorragic strokes (overflow of blood in the brain) caused by estrogen (female hormone) in oral contraceptives has been clinically demonstrated in certain women.

- Teratogenic (producing birth defects) and toxic effects of aspirin have been documented. These effects are a result of dosage and frequency.

- Adverse reactions of Imipramine Pamoate (an anti-depressant) are noted:

  Cardiovascular
  Neurological
  Allergic
  Hematologic
  Gastrointestinal
  Endocrine
  Mild "withdrawal" symptoms:
    Nausea
    Headache
    Malaise

- Hexachlorophene (organic substance containing chlorine) banned in 1972 by FDA regulations from most non-prescription drug products, has more recently been linked to infant death as a result of the brain lesions caused by the hexachlorophene.

- Saccharin (artifical sweetener) on the basis of current information still eludes the carcinogen label but safety for human consumption still must be determined.

Each of the above drugs has documented medical use and side effects are always weighed against the beneficial use when prescribed appropriately.

TREATMENT AND REHABILITATION OF MARIHUANA USERS

Although marihuana does not lead to physical dependence, a significant number of marihuana users have sought help from tertiary* drug treatment facilities in Pennsylvania. The Uniform Data Collection System of the Governor's Council on Drug and Alcohol Abuse provides a preliminary, and as yet, incomplete characterization of these treatment activities.

In November and December, 1974, 148 tertiary drug treatment facilities (slightly less than half) submitted records of 9,935 clients currently receiving some form of treatment. Of these cases, 1,679 (16.9%) report marihuana as a component of the clients' drug history.

In 656 cases (6.6%) marihuana was indicated to be the "major" problem. Twenty percent of these clients in this category entered treatment due to legal pressure.

Counseling is the primary form (89.3%) of treatment given to the majority of clients admitted to a tertiary drug program (See Figure #4). And in most cases, treatment for marihuana abusers occurs on an outpatient basis (83.3%).

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*Tertiary drug treatment facilities are aimed at dealing with those persons found to have chronic patterns (as opposed to experimental) of drug or alcohol use or abuse.

TREATMENT OF MARIHUANA USERS

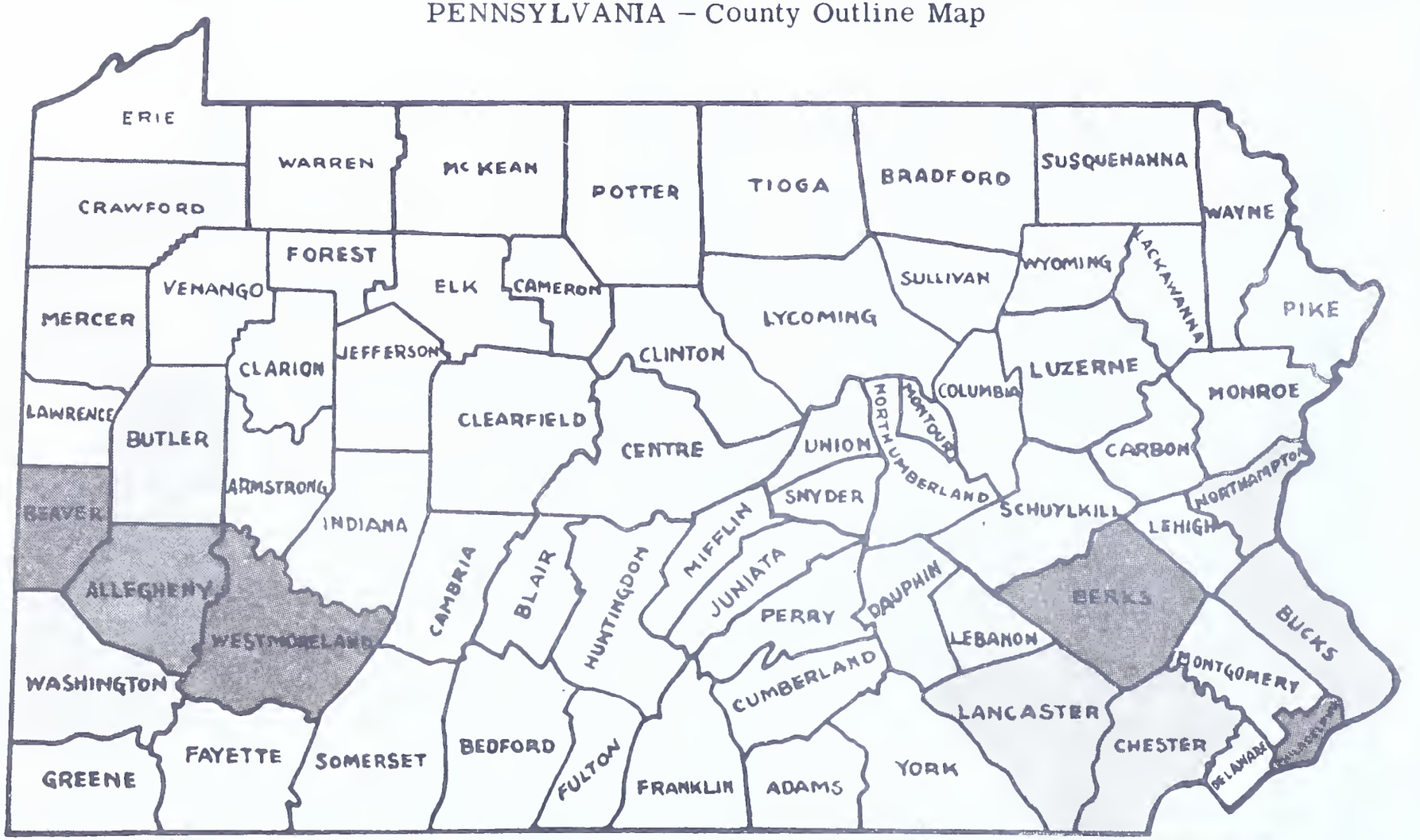
ENVIRONMENT APPROACH	CASE MANAGEMENT	RESIDENT NON-HOSPITAL	RESIDENT HOSPITAL	CORRECTIONAL FACILITY	DAY CARE	OUTPATIENT	TOTAL
Detox		1					1
Meth. Maint.							
Counseling		3		27	10	526	566
Ther. Community		56		1			57
Intermed. Care							
Halfway House				1			1
Three Qtr. Way House							
Case Mgt.	6						6
Other				1		2	3
Total	6	60		30	10	528	634

Counseling Approach used in 89.3% of cases

Outpatient Environment used in 83.3% of cases

RESIDENCE OF MARIHUANA USERS IN TREATMENT*

PENNSYLVANIA – County Outline Map



0

1–10

11–30

30 +

**NOTE:* 108 cases failed to report residence*

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